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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/057,296	01/25/2002	James Brice Worley	OUTT-013/01US	1986

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EXAMINER

GUARRIELLO, JOHN J

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 09/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/057,296	Applicant(s) WORLEY ET AL.	
	Examiner John J. Guarriello	Art Unit 1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,7-15 and 20-30 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,2,7-15 and 20-30 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____. | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 25, 26, 29, 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Bryant et al. 5,366,801.

Bryant describes a coating adapted to be applied to a fabric in order to enhance the thermal characteristics (which corresponds to the claimed coated article with enhanced thermal properties), (see abstract). Bryant describes the coating includes integral microcapsules filled with phase change material (which corresponds to the claimed phase change material), (see abstract). Bryant describes the substrate can be fiber, fabric (woven or non-woven, or knitted) among others, (column 4, lines 25-27). Bryant describes the coating can be discontinuous, (corresponding to the claimed coating can be a pattern), (column 4, lines 27-34). Bryant describes the

polymeric material as a polymer binder, (see column 3, lines 26-31) which corresponds to the claimed polymeric material of the claimed invention. It is the Examiner's position that Bryant describes the essential limitations of the claimed invention and the patterns would be inherent. Claims lack novelty.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 2, 7-15, 20-24, 27, 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bryant et al. 5,366,801 in view of Zuckerman et al. 6,207,738.

Bryant as above in paragraph # 2. Bryant differs from the claimed invention because it is silent about the temperature ranges, specific patterns, amount of the coating of the phase change material, and the stated temperature regulating material.

Zuckerman describes a coating composition for fabrics with wetted microspheres containing a phase change material, (see abstract).

Zuckerman describes the coating with the phase change material which is a polymeric material can be applied to a fabric, (see abstract). Zuckerman describes polymeric binder which corresponds to the claimed temperature regulating material, (column 3, lines 62-67). Zuckerman describes the temperature range of this temperature regulating material between -45 degrees C and +45 degrees C, which overlaps that of the claimed invention.


It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the temperature regulating material of Zuckerman in the phase change material of Bryant motivated with the expectation that this would function as a moderator since they are analogous art. Regarding the specific patterns and the amount of the coating this would be within the skill to one of ordinary skill in the art to optimize per *In re Boesch*, 617 F.2d 272, 205, USPQ 215 (CCPA 1980), since discovering an optimum value involves only routine skill in the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John J. Guarriello whose

telephone number is 703-308-3209. The examiner can normally be reached on Monday to Friday from 8 am to 4 pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris, can be reached on (703) 308-2414. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



John J. Guarriello
Patent Examiner
Art Unit 1771

September 17, 2003



TERREL MORRIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700